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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Berry

Serial No.: 10/663,554

Filed: 09/16/2003

For: EXPANSION TOOL FOR ADJUSTABLE
SPINAL IMPLANT

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Group Art Unit: 3743

Examiner: Unknown

INFORMATION DISCLOSURE STATEMENT

Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In compliance with the duty of disclosure under 37 CFR §1.56, and in accordance with the practice under 37 C.F.R. §1.97 and §1.98, the Examiner's attention is directed to the documents listed on the enclosed Form PTO-1449. Copies of the listed information are also enclosed. The undersigned first became aware of the cited patents by their inclusion in an International Search Report issued by the ISA/EP on March 4, 2004, the PCT counterpart of the present application. A copy of the search report is enclosed.

The above-identified application was filed after June 30, 2003. Therefore, pursuant to the waiver of the requirement under 37 CFR 1.98 (a)(2)(i) as stated in a Pre-OG Notice dated July 11, 2003, copies of only the foreign patent documents and non-patent literature listed on the enclosed modified Form PTO-1449 are attached.

This Information Disclosure Statement is being filed within three months of the United States filing date or before the mailing date of a first Office Action on the merits. No certification or fee is required (37 CFR §1.97(b)).

The Commissioner is hereby authorized to charge any additional fees which may be required or credit any overpayment to Deposit Account 08-1394.

It is respectfully requested that the above information be considered by the Examiner and that a copy of the enclosed Form PTO-1449 be returned indicating that such information has been considered.

Respectfully submitted,

Julie M. Nickols

Julie M. Nickols

Registration No. 50,826

Date: 5/11/2004
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Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on 5-13-04.

Gayle CONNER
Printed Name

Gayle Conner
Signature

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| Information Disclosure Statement by Applicant (use as many sheets as necessary) | | | | U. S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE | |
| | | | | Complete if Known | |
| | | | | Application Number | 10/663,554 |
| | | | | Filing Date | September 16, 2003 |
| | | | | Applicant(s) | Berry |
| | | | | Art Unit | 3743 |
| Examiner Name | Unknown | | | | |
| Attorney Docket Number | 31132.172 | | | | |
| SHEET | 1 | OF | 1 | | |

U. S. PATENT DOCUMENTS

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FOREIGN PATENT DOCUMENTS

| FOREIGN PATENT DOCUMENTS | | | | | |
|--------------------------|----------|---|--------------------------------|---|--------------------|
| Examiner's Initials | Cite No. | Foreign Patent Document (Country Code – Number – Kind) | Publication Date MM-DD-YYYY | Patentee or Applicant of Cited Document | Translation Y/N |
| | BA | DE 3023942 A1 | 01/14/1982 | Keller | No |
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OTHER PRIOR ART

| OTHER PRIOR ART | | |
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| Examiner's Initials | Cite No. | Include name of the author (in CAPITAL LETTERS), title of the article, title of the item, date, page(s), volume-issue number(s), publisher, city/country where published |
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| Examiner Signature | | Date Considered | |
|-----------------------|--|--------------------|--|

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include a copy of this form with next communication to applicant.